UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,683	10/11/2001	Andrew A. Dahl	DAW-119	1178

27014 7590 09/08/2004

JOHN R. BENEFIEL
280 DAINES ST.
#100 B
BIRMINGHAM, MI 48009

EXAMINER	
LEWIS, DAVID LEE	

ART UNIT	PAPER NUMBER
2673	9

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/976,683
Filing Date: October 11, 2001
Appellant(s): DAHL, ANDREW A.

JOHN R. BENEFIEL
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/17/2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The appellant's statement of whether the claims stand or fall together is correct.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,543,684	WHITE	4-2003
6,536,658	RANTZE	3-2003

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 U.S.C. ∋ 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1, 2, 4-7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (6543684).**

3. **As in claim 1, White et al. teaches** of the combination of a display with an interactive terminal comprising: a large area electronic display able to exhibit large scale images viewable at substantial distances by passers by, **figure 4 items 76 and 78**, said display mounted on a base, **figure 4 item 44**, said feature inherent to the kiosk type device, an interactive terminal computer having at least one peripheral device enabling interactive access to store data in said interactive terminal computer, **figure 1 item 36, 42, 46, 54**; such display connected to said computer which generates signals normally producing a display image occupying the complete area of said electronic display in one mode, and

alternatively in another mode, generating display images confined to a lower section of said electronic display, **column 7 lines 42-55, column 8 lines 17-28**; said interactive terminal computer having at least one peripheral connected thereto enabling interactive use by reference to said display image confined to said lower section of said electronic display, **figure 4 items 84 and 86**. **However White is silent** at to said images being poster sized on the order of 42 inches or larger. This limitation however would have been an obvious design choice available to the skilled artisan given the fact that White generally teaches of a large display which can be used for the purposes of advertising. Whites teaches "the type, size, and number of widows, areas, or regions are not absolute and may vary according to mode or usage, column 7 lines 55-65. Therefore the size can encompass the entire display figure 4 item 70 given the design choice of the display size and the mode choice having only one window. Any reasonably large display obviously fails within the teaching a poster sized display as claimed and would have been obvious to the skilled artisan given the display is expected to be seen by passers by.

4. **As in claim 2, White et al. teaches** of further including a pair of screen panels, each mounted on a respective side of said lower section of said electronic display, figure 5 item 87 and 88. **As in claim 4, White et al. teaches** of wherein said electronic display is capable of a touch screen function, to at least partially enable control of said interactive terminal computer, column 5 lines 1-10, figure 1 item 60. **As in claim 5, White et al. teaches** of further including a keyboard for control of said interactive terminal computer, figure 4 item 86. **As in claim 6, White et al. teaches** of further including an Internet

connection to said interactive terminal computer, figure 1 item 62. **As in claim 7, White et al. teaches** of wherein video signals for exhibiting said one mode display images on said complete area of said electronic display are loadable into said computer via said Internet connection, column 8 lines 3-28, wherein Internet advertising is displayed. **As in claim 9, White et al. teaches** of wherein said electronic display is switched from said one mode to said other mode upon initial use of an interactive terminal computer peripheral device, column 7 line 42-67, column 8 lines 1-3, wherein advertising promotion are shown in the non customer use mode.

5. **Claims 8, 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (6543684) and Rantze (6536658).**

6. **As in claims 8 and 10, White is silent as to** including a motion proximity detector generating a signal upon approach of a passer by to a predetermined closeness, said computer responsive thereto to modify a display image normally exhibited by said electronic display, wherein said normal display is resumed upon retreat of any passerby away from said kiosk, and further including the step of changing said display image in response to the approach of a passerby to the vicinity of said interactive terminal computer. **Rantze teaches of** a device such a the kiosk suggested by White, wherein the device includes a motion proximity detector generating a signal upon approach of a passer by to a predetermined closeness, said computer responsive thereto to modify a display image normally exhibited by said electronic display, wherein said normal display

is resumed upon retreat of any passerby away from said kiosk, and further including the step of changing said display image in response to the approach of a passerby to the vicinity of said interactive terminal computer, column 2 lines 49-64, column 7 lines 28-50. The device of Rantze switches between various mode of operatation based on this sensed motion, **wherein said limiation "to switch between said modes of display" is well within the teaching suggested by Rantze. Therefore it would have been obvious** to the skilled artisan in view of Rantze to modify the kiosk as taught by White by including a mode changing motion detector as taught by Rantze for the purpose of changing display modes as taught by Rantze and White, to implement the customer use and non use modes including advertising features, as suggested by both Rantze and White, as found in claims 8, 10, and 14.

7. **As in claim 11, White in view of Rantze teaches of the invention as applied above to claim 8, covering the limitations of amended claim 11, for the same reasons of obviousness as applied to claim 8. As in claim 11, White et al. teaches** of method of using an electronic display both as an electronic billboard and as a display for an interactive terminal, **figure 4, column 8 lines 3-27**, comprising the step of exhibiting a large scale image on a large area electronic display, **figure 4 items 76 and 78**; coupling an interactive terminal computer to said electronic display, **figure 4 items 84 and 86**; and switching to a reduced area display exhibited by a portion of the area of said electronic display comprising displays generated by interactive terminal computer, **column 7 lines 42-55**. Wherein the display device is adapted to show various screens based on the

display mode, such as customer usage mode or advertising mode or program video mode. The device of Rantze switches between various mode of operation based on this sensed motion, wherein said limitation "to switch between said modes of display" is well within the teaching suggested by Rantze. **Therefore it would have been obvious** to the skilled artisan in view of Rantze to modify the kiosk as taught by White by including a mode changing motion detector as taught by Rantze for the purpose of changing display modes as taught by Rantze and White, to implement the customer use and non use modes including advertising features, as suggested by both Rantze and White, because said feature would enhance the display of White as provide by Rantze, as found in claim 11. **As in claim 13, White et al. teaches** of further including the step of periodically changing said display image from video data transmitted via an Internet connection, column 8 lines 1-28.

8. **Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (6543684) in view of Rantz (6536658) and Byker et al. (6239898).**

9. **As in claim 3 and 12, White et al. and White in view of Rantze fails to teaches of** wherein said screen panels are electronically changeable from a transparent to an opaque state, said panels electronically controlled by said computer to be opaque during use of said interactive terminal computer, or further including the step of activating chromogenic privacy panels arranged to create a privacy space adjacent said portion of said electronic display. **Byker et al. teaches** of screen panels electronically changeable

from a transparent to an opaque state, column 1 lines 4-18, column 2 lines 19-22, for the purpose of providing privacy panels as suggested by White et al., column 11 lines 63-67, figure 5 items 87 and 88. **It would have been obvious to the skilled artisan** at the time of the invention to combine replace the privacy panel of White with the privacy panel of Byker because they solve the same problem of privacy in connection to display systems, and White suggests the need for privacy shield that is preferably made of semi-opaque material and allows an amount of light there through to enable the user to see the video keypad but not allow a third party a distance therefrom to see the video keypad. This problem solved by the privacy panel of White is also solved by Byker=s privacy panel, and therefore would have been obvious to use as an alternative enhancement in the system of White.

(11) Response to Argument

ISSUE 1 – Claims 1, 2, 4-7, and 9

Appellant argues – the total screen size of White is not of a poster size on the order of 42 inches diagonally. The Examiner has not made the assertion of White being of a poster size on the order of 42 inches diagonally. In response to this added claims language in the Appellants amendment filed on 10/6/2003 the Examiner states while White is silent as to said images being poster sized on the order of 42 inches or larger, this limitation would have been an obvious design choice available to the skilled artisan given the fact that White generally teaches of a large display which can be used for the purposes of advertising, White, figure 4 item 70, column 8 lines 18-28. Any

reasonably large display falls within the teaching of a poster sized display as claimed. Further Whites teaches " the type, size, and number of widows, areas, or regions are not absolute and may vary according to mode or usage, column 7 lines 55-65. Because the Appellant failed to traverse this assertion given the teaching of White, this common knowledge or well-known in the art statement is taken to be admitted prior. Ito et al. establishes that 42 inch wide VGA computer displays are known, US patent # 6603447 (column 3 lines 50-55).

> C. If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence
> **To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.** See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. .....If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. MPEP 2144.03 (C).

Appellant argues – there is no suggestion that the entire screen area have a single image displayed in one mode of operation. *The Examiner disagrees because as mentioned above White teaches* the type, size, and number of widows, areas, or regions are not absolute and may vary according to mode or usage of the customer service workstation, column 7 lines 55-65. When the customer service workstation is not in use, the customer usage mode screen may be replaced by a promotional

program, music, program video, and the like. White teaches that the Internet area 76 as well as the Ad area 78 may be used for showing advertisements. The full display are taught by White is shown as figures 2-4 item 70. Because White teaches "the number of windows are not absolute and may vary, this directly implies they the display can be configured as one window, as claimed, to serve as a promotional program video.

ISSUE 2 – Claims 8, 10, 11, and 13

Appellant argues – the combination of a change in the images displayed in a display area in response to detection of the proximity of a person is not suggested by the combination of White and Rantze. The Examiner disagrees because Rantze teaches of a device as generally as taught by White wherein both are ATM's (Automated Teller Machines), also know as Kiosk's having display distinctions based on whether a users is using the device interface in close proximity. White teaches of a shield 98 which is preferably made of a semi-opaque material such as smoked plastic that allows an amount of light there through to enable the user to see the video keypad from a close distance but not allow a third party a distance therefrom to see the video, column 11 lines 60-67, as well as a use mode and a non-use promotional mode. Therefore the display of White has a distinction based on whether a user is using the device interface in close proximity. Rantze provides a kiosk which is capable of performing in various modes depending on whether a customer is proximate the terminal as monitored by a proximity sensor and can be used in an advertisement mode during use or non-use. Therefore Rantze has a distinction based on whether a

user is using the device interface in close proximity as with White. The motivation to combine the two features is based on the fact that they are like inventions, Rantze having a feature that will enhance that of White.

ISSUE 3 – Claims 3 and 12

Appellant argues – there is no suggestion to make the panels of White et al.changeable to aid in viewing the image in the key pad area. The Examiner disagrees because White teaches of a shield 98 which is preferably made of a semi-opaque material such as smoked plastic that allows an amount of light there through to enable the user to see the video keypad from a close distance but not allow a third party a distance therefrom to see the video, column 11 lines 60-67. Therefore the shield serves two distinct purposes, one serving to see through it, the other serving to block light. This shield of White is specifically in the key pad area. Therefore the Appellants statement that "there would thus never be a need for transparent panels to aid in viewing the image in that area" of White is in error given that the shield is semi-opaque and can be seen through.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

***

September 7, 2004

Conferees

Bipin Shalwala

BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Matthew Bella

David L. Lewis
***

JOHN R. BENEFIEL
280 DAINES ST.
#100 B
BIRMINGHAM, MI 48009